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Of Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

SODEXO AMERICA, LLC,

Plaintiff,

v.

CONCORDIA UNIVERSITY

Defendant.

Case No.:

COMPLAINT

COMPLAINT

Plaintiff SODEXO AMERICA, LLC (“Sodexo”), by and through its undersigned attorneys, brings this action against Defendant CONCORDIA UNIVERSITY (“Concordia”) for breach of contract, and states as its Complaint as follows:

Nature of the Action

1. This case arises out of Concordia’s clear breach of its contractual obligation to reimburse and pay Sodexo the unamortized portion of its more than half a million dollars of investment upon the termination of the contract between them. Sodexo brings this action for breach of contract. In addition to recovering the more than \$550,000 Concordia owes to it, Sodexo seeks to recover its attorneys’ fees and costs incurred in preparing, filing, and prosecuting this action.

Parties

2. Plaintiff Sodexo America, LLC is a Delaware limited liability company. Its sole member is a New York corporation with a principal place of business in Maryland.

3. Defendant Concordia University is an Oregon nonprofit corporation.

Jurisdiction and Venue

3. This Court has jurisdiction over all causes of action asserted in this Complaint under 28 U.S.C. § 1332 because complete diversity of citizenship exists between the parties and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

4. Venue is proper in this Court because a substantial part of the actions, failures, events and/or omissions giving rise to the claims occurred in this judicial District.

Facts

5. On or about February 1, 2015, Concordia and Sodexo entered a management agreement for Sodexo to manage and operate food services for Concordia's students, faculty, staff, employees, and invited guests at its campus in Portland, Oregon (as amended, the "Management Agreement").

6. Under the Management Agreement, Sodexo provided resident dining, retail sales, and catering services, and made amortized investment contributions to Concordia to be used toward the renovation of cafes.

7. The Management Agreement provided that, pursuant to a prior management agreement between the parties superseded by the Management Agreement, Sodexo had invested \$825,000.00 for the renovation of Hagen Café and Café 1905 (the "Cafes") on or about September 1, 2013 (the "Investment"). The Management Agreement required Sodexo to amortize its Investment on a straight-line basis over twenty (20) years commencing September

2013 (MA, ¶ 8.3.C).

8. The Management Agreement obligated Concordia to reimburse Sodexo the unamortized portion of the Investment within five (5) days after receipt of a notice of termination under the Management Agreement (MA, ¶ 8.3.C).

9. The Management Agreement further obligated Concordia to pay interest on any amount not paid when due at the rate of one and one-half percent (1.5%) each month (MA, ¶ 8.1).

10. The Management Agreement also required Concordia to reimburse Sodexo for all costs and expenses, including but not limited to, court costs, attorney's fees and collection service fees, incurred by Sodexo in collecting from Concordia any amount not paid when due (MA, ¶ 8.1).

11. Although the initial term of the Management Agreement was twenty-one (21) years commencing on July 1, 2014 and ending June 30, 2035, the parties contracted for the right to terminate the Management Agreement at any time upon ninety (90) days written notice to the other party (MA, ¶ 3.1.C).

12. On February 28, 2020, Sodexo provided written notice to Concordia that it was terminating the Management Agreement effective May 31, 2020 (the "Termination Notice"). By that date, Concordia had stated that it planned to close in April 2020 and that it did not intend to honor the remaining term of the Management Agreement.

13. In the Termination Notice, Sodexo demanded the unamortized balance of its Investment, plus other amounts due and owing.

14. Concordia failed to reimburse Sodexo the unamortized portion of Sodexo's Investment within five days after receipt of the Termination Notice.

15. Sodexo's last day of services under the Management Agreement was April 24,

2020.

16. Sodexo made an additional written demand to Concordia for the unamortized portion of its Investment on August 18, 2020.

17. Concordia has failed to reimburse Sodexo the unamortized portion of Sodexo's Investment.

18. The unamortized portion of the Investment is approximately \$552,296.02.

19. Concordia also has refused to pay Sodexo interest on this amount not paid when due of approximately \$38,403.48 (as of October 2020).

COUNT I
(Breach of Contract)

20. Sodexo adopts and incorporates Paragraphs 1 through 19 above as if set forth fully herein.

21. The Management Agreement between Sodexo and Concordia constituted a written, express contract.

22. Sodexo performed under the Management Agreement.

22. The Management Agreement obligated Concordia to reimburse Sodexo for the unamortized balance of the Investment, plus interest.

23. Concordia breached the Management Agreement by failing to reimburse Sodexo the unamortized balance of the Investment, plus interest.

24. As a direct and proximate result of Concordia's breach of the Management Agreement, Sodexo has incurred monetary damages exceeding \$590,699.50, which such damages will continue to accrue during the pendency of this action, in an exact amount to be proved at trial.

COUNT II
(Fees, Costs, and Expenses)

25. Sodexo adopts and incorporates Paragraphs 1 through 24 above as if set forth fully herein.

26. In attempting to enforce the terms of the Management Agreement, Sodexo has incurred—and will continue to incur during the pendency of this action—attorneys’ fees, court costs, and other litigation expenses.

27. Pursuant to Section 8.1 of the Management Agreement, Sodexo is entitled to recover its attorneys’ fees, court costs, collection service fees, and related costs and expenses in collecting from Concordia any amount not paid when due.

WHEREFORE, Plaintiff Sodexo Operations, LLC prays:

(a) that the Court exercise jurisdiction over this action;

(b) that the Court award Sodexo compensatory damages in an amount to be proved at trial, plus pre-judgment and post-judgment interest thereon;

(c) that the Court award Sodexo its reasonable attorneys’ fees and costs incurred in preparing, filing, and prosecuting this action; and

(d) that the Court award Sodexo such further relief as the Court deems just and proper.

Respectfully submitted,

DATED: October 30, 2020.

HODGKINSON STREET MEPHAM, LLC

/s/ David S. Mephram

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